

## **REMARKS**

This Amendment and Response amends claims 1, 41-42 and 44. With this Amendment and Response, claims 1-47 are pending in this application.

### **I. Amendments to the Specification**

The Action objected to page 7 line 30 of the disclosure because it appears that “45 degrees C” should be “45 degrees.” Applicants have amended the disclosure to correct this error. No new matter has been added. Applicants thus submit that the Action’s objection has been overcome and request that the objection be withdrawn.

The Action objected to the abstract of the disclosure because it contained legal phraseology in the form of the word “said” in line 3. Applicants have resolved this objection by changing the word “said” to “the.” No new matter has been added. Applicants thus submit that the Action’s objection has been overcome and request that the objection be withdrawn.

The Action objected to the incorporation of essential material in the specification by reference to a foreign application or patent, or to a publication. Except for the Cross-Reference to Related Applications, Applicants submit that there are no other incorporations by reference, and thus no incorporation of essential material. Applicants respectfully request that the Examiner point specifically to the objectionable incorporation so that Applicants can further assess the objection.

### **II. 35 U.S.C §112 Rejections**

The Action rejects claim 1 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Action states that the phrase “in particular”

in line 1 is indefinite in that it is unclear to what products other than meat the device is to be used with. Claim 1 has been amended to specify that it is a “device for treating meat products.” The offending “in particular” language has been removed. Thus, Applicants respectfully request that the rejection be withdrawn.

The Action also rejects claim 41, stating that the limitation “the liquid and/or solid massaging substance” in line 3 lacks sufficient antecedent basis. Claim 41 has been amended to state “to discharge both the products and a liquid and/or a solid massaging substance.” Although the Action did not reject claims 42 and 44, Applicant notes that the same issues were present in those claim and, thus, has amended claims 42 and 44 in a similar manner. Applicants respectfully submit that the amendments overcome the Action’s rejections and requests that they be withdrawn.

### **III. 35 U.S.C. §102 Rejections**

The Action rejects claims 1-20, 22-25, 35-36 and 42-45 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,791,705 to Corominas. Claim 1 has been amended to specify that the discharge device is located at least partially within the treatment section. This limitation is not present in the Corominas reference. Applicants thus request that this rejection be withdrawn.

The Action likens the treatment section of the instant invention to the receptacles 22 of Corominas. The Action further analogizes the treatment device to the blades 21 of Corominas. As shown in Figures 4 and 5a of Corominas, the blades 21 extend from and define “along the drum inner wall a series of receptacles 22” in order to “obtain a hard striking action on the meat mass during one of the drum-rotating phases, but provide a soft massage when the meat slides over the blades 21 in the other drum rotating phase.”

See Col. 4, lines, 45-51. The Action also states like the discharge device of the instant invention to elements 12-17, the rolling drum support means 12, arms 13, closing lid 14, frame 15, hydraulic cylinders 16 and fixed structure 17.

Thus, the treatment of products in the Corominas device takes place inside the drum 10 through the use of blades and receptacles, 21 and 22 respectively. After treatment, products are discharged through by use of hydraulic cylinders which ultimately raise one end of the drum 10 so that it tilts toward the hood inlet 23. In this way, the products are moved under at least the force of gravity through the hood inlet 23 and are discharged into a hopper 40. Thus, the discharge device of the Corominas device is located at least partially outside of the treatment device.

In contrast, Claim 1 has been amended to specify that, in the instant invention, the discharge device, in the active operating state, is located *within* the treatment section of the device. Support for this amendment can be found in the disclosure at page 9, last paragraph, page 19 last paragraph, and in Figures 4a and 4b. The treatment section 30 of the present device may be comprised of a one or more rotatable cylinders. The discharge means 70 comprises a gutter-like member located at least in part within the treatment section. In the active position, the discharge member 70 bears against a massaging element 40. Products 6 move into the discharge member 70. Under the force of gravity, the products 6 slide along the discharge member 70 and move out of the treatment section.

The Corominas devices does not teach or suggest a discharge member which is located at least partially inside the treatment section. Thus, the Corominas device does not anticipate, nor render obvious, amended Claim 1. Applicants thus respectfully submit

that amended Claim 1 is allowable. As Claim 1 is allowable, so are claims 2-47 which depend from Claim 1.

#### **IV. 35 U.S.C. §103 Rejections**

##### **A. Corominas as applied to Claim 20**

The Action rejects Claim 21 under 35 §103(a) as being unpatentable over Corominas as applied to Claim 20. Claim 1 has been amended to specify that, in the active operating state, the discharge device is located at least partially within the treatment section. Corominas does not disclose this limitation. Thus, Corominas as applied to Claim 20 does not teach or suggest every element of Claim 21. Thus, Applicants request that the rejection be withdrawn.

##### **B. Corominas as applied to Claim 19 and further in view of Hord**

The Action rejects Claims 26-28 under 35 §103(a) as being unpatentable over Corominas as applied to Claim 19 and further in view of Horn. Claim 1 has been amended to specify that, in the active operating state, the discharge device is located at least partially within the treatment section. Neither Corominas nor Horn disclose this limitation. Thus, Corominas as applied to Claim 19 and further in view of Horn does not teach or suggest every element of Claims 26-28. Thus, Applicants request that the rejection be withdrawn.

##### **C. Corominas as modified by Horn as applied to Claim 28 and further in view of Thirode**

The Action rejects Claim 29 under 35 §103(a) as being unpatentable over Corominas as modified by Horn as applied to Claim 28, and further in view of Thirode. Claim 1 has been amended to specify that the discharge device is located at least partially

within the treatment section. Neither Corominas nor Horn nor Thirode discloses this limitation. Thus, Corominas as modified by Horn as applied to Claim 28, and further in view of Thirode does not teach or suggest every element of Claim 29. Thus, Applicants request that the rejection be withdrawn.

**D. Corominas as applied to Claim 1 and further in view of Palm**

The Action rejects Claim 30 under 35 §103(a) as being unpatentable over Corominas as applied to Claim 1 and further in view of Palm. Claim 1 has been amended to specify that, in the active operating state, the discharge device is located at least partially within the treatment section. Neither Corominas nor Palm discloses this limitation. Thus, Corominas as applied to Claim 1 and further in view of Palm does not teach or suggest every element of Claim 30. Thus, Applicants request that the rejection be withdrawn.

**E. Corominas as applied to Claim 1 and further in view of Hubbard**

The Action rejects Claim 32 under 35 §103(a) as being unpatentable over Corominas as applied to Claim 1 and further in view of Hubbard. Claim 1 has been amended to specify that, in the active operating state, the discharge device is located at least partially within the treatment section. Neither Corominas nor Hubbard discloses this limitation. Thus, Corominas as applied to Claim 1 and further in view of Hubbard does not teach or suggest every element of Claim 32. Thus, Applicants request that the rejection be withdrawn.

**F. Corominas as applied to Claim 1 and further in view of Petsche**

The Action rejects Claims 33-34, 37-38 and 46-47 under 35 §103(a) as being unpatentable over Corominas as applied to Claim 1 and further in view of Petsche.

Claim 1 has been amended to specify that, in the active operating state, the discharge device is located at least partially within the treatment section. Neither Corominas nor Petsche discloses this limitation. Thus, Corominas as applied to Claim 1 and further in view of Petsche does not teach or suggest every element of Claims 33-34, 37-38 and 46-47. Thus, Applicants request that the rejection be withdrawn.


**G. Corominas as applied to Claim 1 and further in view of Gould**

The Action rejects Claims 31 and 39-41 under 35 §103(a) as being unpatentable over Corominas as applied to Claim 1 and further in view of Gould. Claim 1 has been amended to specify that, in the active operating state, the discharge device is located at least partially within the treatment section. Neither Corominas nor Gould discloses this limitation. In Gould, the discharge device 62 is located outside of the treatment section. Thus, Corominas as applied to Claim 1 and further in view of Gould does not teach or suggest every element of Claims 31 and 39-41. Thus, Applicants request that the rejection be withdrawn.

**CONCLUSION**

Applicants respectfully submit that claims 1-47 are in condition for immediate allowance, and request early notification to that effect.

Respectfully submitted,

  
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